

Before the
Federal Communications Commission
Washington, DC 20554

FEB 5 12 01 PM '04

In the Matter of)
Request for Waiver)
Pratt Unified School District No. 382) File No. SLD-315157
Pratt, Kansas)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

ORDER**Adopted: February 5, 2004****Released: February 6, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Pratt Unified School District No. 382, Pratt, Kansas (Pratt).¹ Pratt requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).² For the reasons set forth below, we deny the Waiver Request.

2. In its decision, SLD determined that Pratt's application had been filed after the close of the January 17, 2002 FCC Form 471 filing window.³ Pratt requests a waiver of the Commission's rules because it had to revise its FCC Form 470, which delayed the completion of its competitive bidding period.⁴ Pratt also argues that the staff member responsible for mailing the Block 6 certification page was unavailable until after the filing window closed.⁵

¹ Letter from Bob Lee, Pratt Unified School District No. 382, to Federal Communications Commission, filed December 10, 2002 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. 54.719(c).

² *Id.*

³ Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Bob Lee, 401 N. Ninnescah, dated November 22, 2002. The record shows that Pratt's Block 6 Certification Page was postmarked on January 18, 2002.

⁴ See Waiver Request. In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services. See *Schools and Libraries Universal Service, Description of Services Requested and Certification Form*, OMB 3060-0806 (FCC Form 470). The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form

3. We find that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than strict adherence to the general rule.⁶ The fact that Applicant's competitive bidding period was delayed as a result of having to file a revised FCC Form 470 does not create the special circumstances or particular facts that warrant a waiver of the Commission's rules.⁷ Moreover, Applicant's assertion that the unavailability of staff contributed to the filing of the application out of window is not a special circumstance warranting a waiver of the filing window.⁸ The Commission has consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.⁹ Therefore, we deny the Waiver Request.

471 requesting support for the services ordered by the applicant. 47 C.F.R. § 54.504(c); *see also*, Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁵ *See* Waiver Request.

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); *see also* *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

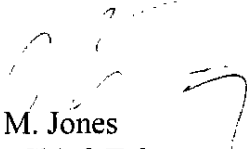
⁷ *See, e.g., Request for Waiver by Duncanville Independent School District*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-272355, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 11863 (Wireline Comp. Bur. 2002) (The Applicant bears the responsibility of completing the relevant forms and submitting them within the established deadline.)

⁸ *See, e.g., Request for Waiver by Hancock County Public Library*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-318275, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 19521 (Wireline Comp. Bur. 2002).

⁹ *See, e.g., Application for Review by Information Technology Department State of North Dakota*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc. File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, FCC 03-240 (Wireline Comp. Bur. rel. Oct. 21, 2003). *See also* *Request for Waiver by Center City Schools*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-3256719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (Wireline Comp. Bur. 2003).

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Waiver Request filed by Pratt Unified School District No. 382 on December 10, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION


Narda M. Jones
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

